रजिस्ट्री सं० डी०एल०-33004/2003 REGISTERED NO. DL-33004/2003

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II — खण्ड 2
PART II — Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 20] नई दिल्ली, सोमवार, मई 5, 2003/ वैशाख 15, 1925
No. 20] NEW DELHI, MONDAY, MAY 5, 2003/ VAISAKHA 15, 1925

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 5th May, 2003.

BILL NO. 32 OF 2003

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Ninety-seventh Amendment) Act, 2003. Short title.

2. In article 75 of the Constitution, after clause (*1*), the following clauses shall be inserted, namely:— Amendment of article 75.

"(1A) The total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed ten per cent. of the total number of members of both Houses of Parliament.

(1B) A member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or till the date on which he contests an election to any House of Parliament or Legislature of a State, whichever is earlier.".

Amendment of article 164.

3. In article 164 of the Constitution, after clause (*1*), the following clauses shall be inserted, namely:—

"(1A) The total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed ten per cent. of the total number of members of the Legislative Assembly of that State or, in case of a State having a Legislative Council, the total number of both Houses of the Legislature of that State:

Provided that the number of Ministers, including Chief Minister in a State shall not be less than seven.

(1B) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or till the date on which he contests an election to any House of Parliament or Legislature of a State, whichever is earlier.".

Insertion of new article 361B.

Disqualification for appointment on remunerative political post.

4. After article 361A of the Constitution, the following article shall be inserted, namely:—

'361B. A member of a House belonging to any political party who is disqualified for being a member of the House under paragraph 2 of the Tenth Schedule shall also be disqualified to hold any remunerative political post for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or till the date on which he contests an election to a House, whichever is earlier.

Explanation.—For the purposes of this article, the expression "House" has the meaning assigned to it in clause (*a*) of paragraph 1 of the Tenth Schedule.'.

Amendment of the Tenth Schedule.

5. In the Tenth Schedule to the Constitution,—

(*a*) in paragraph 1, in clause (*b*), the words and figure "paragraph 3 or, as the case may be," shall be omitted;

(*b*) in paragraph 2, in sub-paragraph (*1*), for the words and figures "paragraphs 3, 4 and 5", the words and figures "paragraphs 4 and 5" shall be substituted;

(*c*) paragraph 3 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Demands have been made from time to time in certain quarters for strengthening and amending the Anti-defection Law as contained in the Tenth Schedule to the Constitution of India, on the ground that these provisions have not been able to achieve the desired goal of checking defections. The Tenth Schedule has also been criticised on the ground that it allows bulk defections while declaring individual defections as illegal. The provision for exemption from disqualification in case of splits as provided in paragraph 3 of the Tenth Schedule to the Constitution of India has, in particular, come under severe criticism on account of its destabilising effect on the Government.

2. The Committee on Electoral Reforms (Dinesh Goswami Committee) in its report of May, 1990, the Law Commission of India in its 170th Report on "Reform of Electoral Laws" (1999) and the National Commission to Review the Working of the Constitution (NCRWC) in its report of March 31, 2002 have, *inter alia,* recommended omission of said paragraph 3 of the Tenth Schedule to the Constitution of India pertaining to exemption from disqualification in case of splits. The NCRWC is also of the view that a defector should be penalised for his action by debarring him from holding any public office as a Minister or any other remunerative political post for at least the duration of the remaining term of the existing Legislature or until, the next fresh elections whichever is earlier. It is proposed to accept these suggestions.

3. The NCRWC has also observed that abnormally large Councils of Ministers were being constituted by various Governments at Centre and States and this practice had to be prohibited by law and that a ceiling on the number of Ministers in a State or the Union Government be fixed at the maximum of 10% of the total strength of the popular House of the Legislature.

4. In the light of the above, it is proposed to amend the Constitution by omitting paragraph 3 of Tenth Schedule to the Constitution of India and to provide that the size of the Council of Ministers should not be more than 10% of the strength of House or Houses concerned whether Unicameral or Bicameral. However, in case of smaller States like Sikkim, Mizoram and Goa having 32, 40 and 40 Members in the Legislative Assemblies respectively, a minimum strength of 7 Ministers is proposed.

5. The Bill seeks to achieve the objects mentioned above.

ARUN JAITLEY.

G. C. MALHOTRA,
Secretary-General.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI
AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 2003.

MGIPMRND—921GI—22-05-2003.